

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MASSACHUSETTS

FILED  
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DEC -2 2003  
File Number

U.S. DISTRICT COURT  
DISTRICT OF MASS

OSCAR REYES  
d/b/a/ OSQUI SUPERMARKET  
Plaintiff

vs.

UNITED STATES OF AMERICA;  
Defendant

COMPLAINT FOR TRIAL DE NOVO  
PURSUANT TO 7 USC § 2023

03 - 30295 - KPN

THE PARTIES

1. The plaintiff Oscar Reyes, is an individual residing at 195 Oak Street, Holyoke, Massachusetts.
2. The plaintiff is the sole proprietor of a retail food store, as defined in 7 CFR § 271.2; doing business as Osqui Supermarket, with a usual place of business at 696 Dwight Street, Holyoke, Massachusetts.
3. The Defendant, United States of America, is a sovereign constitutional government of those enumerated powers specified in the Constitution of the United States; and is named defendant as provided in 7 USC § 2023 (a)(13).

JURISDICTION

4. This action arises under 7 USC § 2023, as hereinafter more fully appears.

FIRST CLAIM FOR RELIEF

5. The defendant, by and through its Department of Agriculture, Food and Nutrition Service, administers the Food Stamp Program as created by the Food Stamp Act of 1977 (Pub. L. 95-113) (hereinafter "the Program").
6. The plaintiff operates his retail food store as stated in paragraph 2 of this complaint, which participates in the Program.

**FILING FEE PAID:**

RECEIPT # 305438  
AMOUNT \$ 150.00  
BY DPTY CLK MLG  
12/2/03

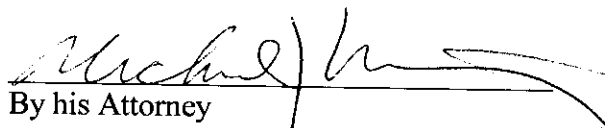
7. A final determination, supporting the plaintiff's permanent disqualification, was served upon him on or about November 6, 2003 a copy of which is attached hereto and marked "Exhibit A".
8. The plaintiff is aggrieved by the aforesaid final determination.

RELIEF REQUESTED

WHEREFORE the plaintiff demands:

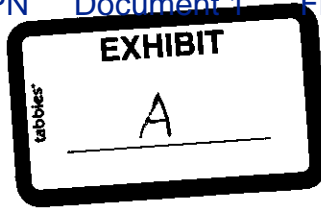
pursuant to 7 USC § 2023, judicial review of the aforesaid final determination, and further requests that the Court set aside such determination.

Respectfully submitted  
The Plaintiff  
Oscar Reyes

  
By his Attorney  
Michael J. Moriarty  
DUCHARME, MORIARTY & TURCOTTE  
245 High Street  
Holyoke, MA 01040  
(413) 536-3330  
BBO # 564775

DATED: November 14, 2003

United States  
Department of  
Agriculture



Food and Nutrition Service  
10 Causeway St. Rm 501  
Boston, MA 02222

Oscar Reyes  
Osqui Supermarket  
696 Dwight St.  
Holyoke, MA 01040

NOV 6 2003

Dear Mr. Reyes:

On October 30, 2003, you received a determination letter from Ms. Beverly King, Administrative Review Officer. The letter informed you that you are eligible for a civil money penalty (CMP) in the amount of \$11,000. This CMP is in lieu of a three-year disqualification period from the Food Stamp Program (FSP).

You have until November 30<sup>th</sup> 2003 in which to pay the \$11,000 CMP. Enclosed is a bill for collection. Please make your check or money order payable to USDA-FNS-HQ and mail it to:

USDA-FNS-HQ  
P.O. Box 953807  
St. Louis, MO 63195-3807

If you are unable to pay the CMP in one payment, contact John Patton at (703) 305-1458.

In addition, you must submit a collateral bond or irrevocable letter of credit in the amount of \$1,340 to 10 Causeway St., Boston, MA 02215 in accordance with section 278.1(b)(4) of the FSP regulations. The collateral bond or letter of credit shall be made payable to the Food and Nutrition Service. You have until November 30<sup>th</sup> to submit the bond or letter of credit. This bond must remain in effect for the duration of your authorization. We have enclosed instructions regarding the specific wording to be included in bonds and letters of credit.

Failure to pay the CMP or to comply with the bond/letter of credit requirement will result in your disqualification from the FSP or a period of three years. If you are disqualified and apply for authorization at the end of your disqualification period, you will be required to submit a collateral bond or irrevocable letter of credit as stated above. In the event that you sell or transfer ownership of your store prior to the end of the disqualification period, you will still be subject to and liable for a CMP as provided by FSP regulations sections 278.6(f)(2), (3), and (4).

Si usted tiene dificultad entendiendo esta carta debido a falta de conocimiento del idioma inglés, llame a nuestra oficina al número: 617-565-6380 inmediatamente. Nosotros le explicaremos o traduciremos el contenido.

Sincerely,

Peter S. Conti  
Officer-In-Charge  
MA/ME/RI Field Offices

Enclosure: FSP regulations  
Bill for Collection  
Bonding Instructions

Cc: Michael J. Moriarty, Esq.